BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

WILLIAM JOHNSON	}
Claimant VS.	Docket No. 201,754
COASTAL REFINING & MARKETING Respondent	Docket No. 201,734
AND	
CRAWFORD AND COMPANY Insurance Carrier	}

ORDER

The respondent and insurance carrier request review of the Preliminary Hearing Order of Administrative Law Judge John D. Clark entered in this proceeding on July 18, 1995.

Issues

The Administrative Law Judge granted claimant's request for medical benefits. The respondent and insurance carrier requested this review and contend claimant failed to prove he sustained accidental injury during the period alleged and failed to prove timely written claim. Those are the issues now before this Board.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing, the Appeals Board finds as follows:

The Preliminary Hearing Order of the Administrative Law Judge should be reversed. Claimant alleges he sustained hearing loss as a result of a series of accidents occurring between December 1993 and May 1, 1994, the date he was laid off. In support of his allegations, claimant testified he noticed his hearing worsened during the period of the alleged accident and introduced the medical report of Richard J. Cummings, M.D. Dr. Cumming's report indicated claimant has bilateral sensorineural hearing loss, typical of that being noise induced.

The Appeals Board finds that claimant has not proven that he sustained injury to his hearing as a result of his employment with respondent during the period alleged. Dr. Cumming's report fails to indicate when the injury to claimant's hearing occurred, although it does indicate claimant has a history of noise exposure at respondent's refinery for a thirty (30) year period which included an explosion that knocked claimant back

IT IS SO ORDERED

approximately twenty to fifty (20-50) feet. Claimant also testified that during his last six (6) years working for respondent, he spent one-half ($\frac{1}{2}$) of the day in an office environment and one-half ($\frac{1}{2}$) of the day out in the refinery. However, he also testified that he wore protective ear devices when he went out into the refinery. Because the evidence does not establish whether claimant has sustained hearing loss during the period alleged or whether such hearing loss is related to his work activities or other potential causes, the claimant has failed to sustain his burden of proof.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge John D. Clark entered in this proceeding on July 18, 1995, should be, and hereby is, reversed.

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Dated this day of October, 1995.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: Robert R. Lee, Wichita, Kansas Kurt W. Ratzlaff, Wichita, Kansas John D. Clark, Administrative Law Judge Philip S. Harness, Director